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VIA HAND DELIVERY

May 20, 2013

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW, Room 4-C330
Washington, DC 20554

RE: *In the Matter of Numbering Policies for Modern Communications*, WC Docket No. 13-97, *IP-Enabled Services*, WC Docket No. 04-36, *Telephone Number Requirements for IP-Enabled Services Providers*, WC Docket No. 07-243, *Telephone Number Portability*, CC Docket No. 95-116, *Developing a Unified Inter-carrier Compensation Regime*, CC Docket No. 01-92, *Connect America Fund*, WC Docket No. 10-90, *Numbering Resource Optimization*, CC Docket No. 99-200

Dear Ms. Dortch,

IntelePeer, Inc. ("IntelePeer") submits its VoIP Numbering Trial Proposal ("Proposal") in the aforementioned dockets. According to the *FCC VoIP Numbering Order*, the Federal Communications Commission ("Commission") directed any provider wanting to participate in the VoIP Numbering Trial to submit a trial proposal, explained that the plans will be available for public comment.¹ However, IntelePeer requests that specified information contained in its Proposal be withheld from public inspection under Exemption 4 of the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552(b)(4), and Section 0.457(d)(2) of the Commission's Rules. This material is proprietary and commercially sensitive information that IntelePeer does not in the normal course of business reveal to the public or its competitors.

¹ *In the Matter of Numbering Policies for Modern Communications*, WC Docket No. 13-97, *IP-Enabled Services*, WC Docket No. 04-36, *Telephone Number Requirements for IP-Enabled Services Providers*, WC Docket No. 07-243, *Telephone Number Portability*, CC Docket No. 95-116, *Developing a Unified Inter-carrier Compensation Regime*, CC Docket No. 01-92, *Connect America Fund*, WC Docket No. 10-90, *Numbering Resource Optimization*, CC Docket No. 99-200, Order, FCC 13-51 (rel. April 19, 2013) ("FCC VoIP Numbering Order").

In support of this request and pursuant to Section 0.459(b) of the Commission's rules, IntelPeer hereby states the following:

(1) Identification of the specific information for which confidential treatment is sought.

IntelPeer is requesting that certain information in the Proposal, denoted by **[]**, be withheld from public disclosure under 5 U.S.C. § 552(b)(4), and 47 C.F.R. § 0.457(d)(2) ("Confidential Information"), as highly sensitive commercial information concerning IntelPeer's business plans, operations and systems.

(2) Identification of the Commission proceeding in which the information was submitted or a description of the circumstances giving rise to the submission.

IntelPeer is providing the Confidential Information in response to the directive by the Commission in its *VoIP Numbering Order*, that any provider seeking to participate in the VoIP Numbering Trial submits a proposal of how the provider intends to participate in the trial.

(3) Explanation of the degree to which the information is commercial or financial, or contains a trade secret or is privileged.

The Confidential Information (described in (1) above) is commercially sensitive information "which would customarily be guarded from competitors" as set forth in 47 C.F.R. § 0.457 and may be withheld from public disclosure under FOIA Exemption 4. Indeed, the Commission has long recognized that, for purposes of Exemption 4, "records are 'commercial' as long as the submitter has a commercial interest in them." *Robert J. Butler*, 6 FCC Rcd 5414, 5415 (1991), citing *Public Citizen Health Research Group v. F.D.A.*, 704 F.2d 1280, 1290 (D.C. Cir. 1983); *American Airlines v. National Mediation Board*, 588 F.2d 863, 868 (2d Cir. 1978).

(4) Explanation of the degree to which the information concerns a service that is subject to competition.

The VoIP communications market is highly competitive throughout the United States. In addition, the scope of the VoIP Numbering Trial will likely involve the majority of IntelPeer's competitors, given the nature of this market.

(5) Explanation of how disclosure of the information could result in substantial competitive harm.

The D.C. Circuit has found parties do not have to "show actual competitive harm" to justify confidential treatment. Rather, "[a]ctual competition and the likelihood of substantial competitive injury" is sufficient to bring commercial information within the realm of confidentiality." *Public Citizen Health Research Group*, 704 F.2d at 1291, quoting *Gulf & Western Industries v. U.S.*, 615 F.2d 527, 530 (D.C. Cir. 1979). In this regard, disclosure of the Confidential Information would cause irreparable injury and substantial harm to IntelPeer's ongoing business operations and competitive position, by impairing the edge this information creates for IntelPeer. Access to the Confidential Information would

provide IntelPeer's competitors with sensitive insights related to IntelPeer's business plans, operations and systems, as well as business decisions used for vendor selection and management. The information is an integral part of the design and technical solutions IntelPeer has established and maintained for our network.

(6) Identification of any measures taken by the submitting party to prevent unauthorized disclosure.

IntelPeer does not make the Confidential Information available to the public. In addition, IntelPeer takes all commercially necessary steps to prevent this information from being disclosed to the public, including, but not limited to, requiring any party receiving such information to execute a fully negotiated non-disclosure agreement.

(7) Identification of whether the information is available to the public and the extent of any previous disclosure of the information to third parties.

IntelPeer does not make the Confidential Information available to the public in any substantially similar form.

(8) Justification of the period during which the submitting party asserts that material should not be available for public disclosure.

IntelPeer requests that the Confidential Information be kept confidential indefinitely. Such a time period is justifiable in light of the substantial and continuing competitive concerns inherent in the communications industry, as outlined above.

Given the explanations set forth above, IntelPeer hereby respectfully requests that the Confidential Information in its Proposal be withheld from public disclosure pursuant to 47 C.F.R. §0.459.

Please do not hesitate to contact me with any further questions or concerns.

Sincerely,

A handwritten signature in black ink, appearing to read "Kristin L. Manwarren". The signature is fluid and cursive, with the first name "Kristin" and last name "Manwarren" clearly distinguishable.

Kristin L. Manwarren
Counsel for IntelPeer, Inc.

Enclosure

INTELEPEER VoIP NUMBERING TRIAL PROPOSAL

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INTELEPEER VoIP NUMBERING TRIAL PROPOSAL**I. Introduction**

On April 18, 2013, the Federal Communications Commission (“Commission”) adopted an Order expressly waiving Section 52.15(g)(2)(i) of the Commission’s rules for purposes of participating in a limited trial giving certain VoIP providers direct access to numbers (“VoIP Numbering Trial”).¹ The Commission in the *FCC VoIP Numbering Order* limits the VoIP Numbering Trial to VoIP providers that have already sought waivers to obtain direct access to numbers”, and sets forth several conditions of the VoIP Numbering Trial.² Specifically, the Commission orders participating providers to submit a numbering proposal, which (1) includes a certification that the provider will comply with the terms and conditions of the waiver, (2) identifies the rate centers or LATAs in which the provider wishes to have numbers directly assigned, and note how many numbers it proposes to receive as new numbers and to port in from existing or new customers, and (3) describes the phase-in process to implement the trial.³

IntelPeer, Inc. submits this IntelPeer VoIP Numbering Trial Proposal (“Trial Proposal”) to demonstrate its intentions for satisfying each of the conditions outlined by the Commission. At the outset, the Trial Proposal outlines our eligibility for the VoIP Numbering Trial. In addition, IntelPeer includes a certification that IntelPeer will comply with the terms and conditions established by the Commission for this limited waiver. This Trial Proposal also identifies the LATAs in which IntelPeer intends to obtain numbers directly in the VoIP Numbering Trial, along with the amount of numbers in each LATA to be obtained in new blocks of numbers and to be ported in from existing or new customers. Finally, IntelPeer in this Trial Proposal describes its phase-in process to implement the trial. Accordingly, IntelPeer submits this Trial Proposal for comment, and ultimately Commission approval.

¹ *In the Matter of Numbering Policies for Modern Communications*, WC Docket No. 13-97, *IP-Enabled Services*, WC Docket No. 04-36, *Telephone Number Requirements for IP-Enabled Services Providers*, WC Docket No. 07-243, *Telephone Number Portability*, CC Docket No. 95-116, *Developing a Unified Intercarrier Compensation Regime*, CC Docket No. 01-92, *Connect America Fund*, WC Docket No. 10-90, *Numbering Resource Optimization*, CC Docket No. 99-200, Order, FCC 13-51 (rel. April 19, 2013)(“*FCC VoIP Numbering Order*”).

² *FCC VoIP Numbering Order* at ¶¶ 89, 99-108.

³ *Id.* at ¶ 101.

II. Eligibility

Specifically, the Commission limited the VoIP Numbering Trial to VoIP providers that have already sought waivers to obtain direct access to numbers”.⁴ On March 4, 2005, VoEX, Inc. filed its Petition for Limited Waiver of Section 52.15(g)(2)(i) of the Commission’s Rules Regarding Access to Numbering Resources in CC Docket No. 99-200. VoEX changed its name to IntelePeer, Inc. in a letter filed with the Commission in File No. ITC-214-20030529-00263 on October 18, 2007. Accordingly, IntelePeer indicates with this submission its intention to participate in the VoIP Numbering Trial, based on its Petition for Limited Waiver.

⁴*Id.* at ¶ 89.

III. Compliance Certification

CERTIFICATE OF COMPLIANCE

By executing this certificate, I certify that, in its participation in the VoIP Numbering Trial, IntelePeer, Inc. will:

- (i) comply with the FCC's number utilization and optimization requirements;
- (ii) adhere to numbering authority delegated to the states;
- (iii) observe all industry guidelines and practices, including filing NRUF Reports;
- (iv) file requests for numbers with the FCC and state commission at least thirty (30) days prior to requesting numbers from the administrators;
- (v) be capable of providing service within sixty (60) days of activating the numbers requested;
- (vi) maintain at least sixty-five percent (65%) number utilization across its telephone number inventory;
- (v) offer IP interconnection to other carriers and providers;
- (vi) work to ensure that its carrier partners comply with applicable law, including intercarrier compensation obligations;
- (vii) provide state commissions contact information when requesting numbers in that state;
- (viii) consolidate and report all numbers under its own unique OCN;
- (ix) provide customers with the ability to access all N11 numbers in use in a state; and
- (x) maintain the original rate center designation of all numbers in its inventory.

Date: 5/20/13

Signature: 

Title: Chief Financial Officer

Printed Name: Andre Simone

Address: 2855 Campus Drive, Suite 200

City/State: San Mateo, CA 94403

Email: regulatory@intelepeer.com

III. Trial Markets

The Commission asks participating providers to also identify the rate centers or LATAs in which it wishes to have numbers directly assigned to it, and note how many numbers in each rate center or LATA it proposes to receive as new numbers and how many it proposes to port in from existing or new customers.⁵ [REDACTED]

[REDACTED]

IV. Implementation Process

The Commission asks participating providers to describe the phase-in process to implement the trial.⁶ IntelePeer outlines its intentions in this Trial Proposal for participating in the VoIP Numbering Trial. However, IntelePeer anticipates being confronted by unexpected hurdles during our participation in the VoIP Numbering Trial, and may need to re-evaluate and revise its initial plan outlined in this Trial Proposal based on what we learn. This Section V. outlines our initial plan for our Trial Proposal, with additional explanations of how we plan to satisfy the remaining conditions of the VoIP Numbering Trial.

A. Technical Configuration

IntelePeer intends to create its own Local Routing Number (“LRN”) under its existing Operating Company Number for calls to route in the VoIP Numbering Trial.⁷ IntelePeer will establish (or maintain) direct connections over IP to exchange traffic with any carriers and providers interested in establishing such connections pursuant to new

⁵ Id. at ¶ 101.

⁶ Id. at ¶ 101.

⁷ IntelePeer already has OCN (7337) and FRN (0009-0341-82) numbers to support the carrier side of our business, which we plan to use to support our participation in the VoIP Numbering Trials. IntelePeer also has an existing subscription to the LERG, which we can rely on for our trial participation.

[REDACTED] to designate the switch of such carriers behind IntelPeer's LRN in the appropriate numbering systems and databases, including the LERG and NPAC, as the default routing location for traffic bound to IntelPeer to route PSTN-originated calls.⁸ IntelPeer will report all numbers for the VoIP Numbering Trial under its own OCN as well.

IntelPeer will conduct the trial using a phased-in approach. The first phase will be for alpha-testing internal IntelPeer numbers. IntelPeer will file a request for numbers with the FCC and applicable state commission (including contact information on the request) at least thirty (30) days prior to requesting numbers from administrators. After this period expires, IntelPeer will begin by requesting [REDACTED]

Once that portion of the Beta Phase is completed in a manner satisfactory to our customers, we will port in and out as many numbers as needed by the customers, within the confines of the VoIP Numbering Trial.⁹

IntelPeer will comply with the state and federal regulatory numbering requirements, and any applicable industry guidelines and practices, as well as contract with our carrier and provider partners to do the same. IntelPeer will provide service

⁹ See *Id.* at ¶ 100.

IntelPeer™, Inc.

within sixty (60) days of activating the numbers requested, and will seek to maintain at least sixty-five percent (65%) number utilization across its telephone number inventory. For the purposes of this VoIP Numbering Trial, IntelPeer Provide state commission with contact information when requesting numbers. Finally, IntelPeer will provide customers with the ability to access all N11 numbers in use in any state in which IntelPeer has obtained numbers, and will maintain the original rate center designation of all numbers in its inventory.